

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of ____, 2003:

Present

Vote

James S. Burgett, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of ____, which carried __, the following ordinance was adopted:

AN ORDINANCE TO AMEND SECTION 10-2, DEFINITIONS, OF CHAPTER 10, EROSION AND SEDIMENT CONTROL, YORK COUNTY CODE, TO BRING IT INTO CONFORMANCE WITH STATE CODE

BE IT ORDAINED by the York County Board of Supervisors, this ____ day of ____, 2003, that section 10-2, York County Code, be and it is hereby amended to read and provide as follows:

Sec. 10-2. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings ascribed to them in this section:

Agreement in lieu of a plan. A contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family detached dwelling; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Certified inspector. An employee or agent of the County who has been designated as such by the county administrator. A certified inspector shall (i) hold a certificate of competence from the Virginia Soil And Water Conservation Board in the area of project inspection or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for project inspection and successfully complete such program within one year after enrollment.

Certified plan reviewer. A County employee or agent who has been designated as such by the county administrator. A certified plan reviewer shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review, (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for plan review and successfully complete such program within one year after enrollment, or (iii) be licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article 1 (Sec 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as it may be amended from time to time.

Certified program administrator. A County employee or agent designated as such by the county administrator. A certified program administrator shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of program administration or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for program administration and successfully complete such program within one year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including, but not limited to, root mat removal or topsoil removal.

Code of Virginia. All references herein to the Code of Virginia are to the Code of Virginia (1950), as it may be amended from time to time.

Conservation plan, erosion and sediment control plan, or plan. A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretation and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

County. The County of York.

County Administrator. The county administrator for York County, or his designee.

Department. The Virginia Department of Conservation and Recreation.

Director. The director of the Virginia Department of Conservation and Recreation.

District or soil and water conservation district. Refers to the Colonial Soil and Water District.

Erosion Impact area. An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other methods of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Grading. Any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity. Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to clearing, grading, excavating, transporting and filling of land except that the term shall not include:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to the construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas;
- (7) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is

reforested artificially or naturally in accordance with the provisions of Chapter 11 of Title 10.1 of the Code of Virginia (Sec 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia Sec 10.1-1163(B);

- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Virginia Dam Safety Act (Article 2 of Chapter 6 of Title 10.1, Code of Virginia, Sec. 10.1-604 et seq.) ditches, strip cropping, lister furrowing, contour cultivation, contour furrowing, land drainage and land irrigation;
- (10) Disturbed land areas of less than two thousand five hundred (2,500) square feet in size;
- (11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (12) Shore erosion control projects on tidal waters when ~~the projects are approved by the County Wetlands Board, the Virginia Marine Resources Commission or the United States Army Corps of Engineers~~ all of the land disturbing activities are within the regulatory authority of and approved by local wetlands board, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;
- (13) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan approving authority.

Land-disturbing permit. A permit issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof for any purpose set forth herein.

Local erosion and sediment control program or local control program. All of the various methods employed by the County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, which may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Minimum Standards. Those Minimum Standards contained within the Erosion and Sediment Control Regulations promulgated by the Virginia Soil and Water Conservation Board, as set out in 4VAC50-30-40 of the Virginia Administrative Code as they may be amended from time to time.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee. The person to whom a permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, co-operative, county, city, town, or any other political subdivision of the state, any interstate body, or any other legal entity.

Plan-approving authority. The county administrator or his designee who is responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority. The County, which has adopted a soil erosion and sediment control program approved by the Virginia Soil and Water Conservation Board.

Regulations. All regulations promulgated by any local, state, or federal governmental agency having oversight and authority over the control of erosion and sedimentation resulting from land-disturbing activities, including (without limitation) the Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook promulgated by the Virginia Soil and Water Conservation Board, as they may be amended from time to time.

Responsible Land Disturber. An individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Virginia Soil and Water Conservation Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as it may be amended from time to time.

Single-family detached dwelling. A noncommercial one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. For purposes of the definition of a

“single-family detached dwelling”, the term “family” shall have the same meaning as is defined in the York County zoning ordinance, Chapter 24.1 of this Code.

State erosion and sediment control program or state program. The program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia, including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Transporting. Any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.